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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,489	09/27/2007	Haayo Nicolai	NL040365US1	1326

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
TEATERS, LINDSEY C	
ART UNIT	PAPER NUMBER
3742	
MAIL DATE	DELIVERY MODE
05/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/594,489	NICOLAI, HAAYO	
	Examiner	Art Unit	
	LINDSEY C. TEATERS	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *02/08/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 02/09/2010 have been fully considered but they are not persuasive. Applicant argues on page 3 of remarks that neither Albert, Anderson, nor the combination thereof teach or suggest activating a heating element of a boiler during a predetermined length of time, measuring at least one characteristic of the thermal behavior of the boiler as a consequence of activating the heating element including recording a first temperature at a first time and recording a second temperature at a second time. Anderson, however, in paragraphs [0003]-[0005] teaches activating a lower heating element in a boiler and then recording the temperature in order to see if the boiler is empty, and then further recording the temperature of an upper heating element of the boiler to determine when the boiler is full and at the desired temperature. The teachings of Anderson clearly read on independent claims 1 and 9 as amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al (US 5,372,061) in view of Anderson (EP 1 076 212 A2), cited by applicant.

Albert et al teaches a method of operating a boiler of a coffee maker (fig 1), wherein the boiler (12) comprises a container for containing water and a heating element (36) for heating the water to a predetermined temperature, the method comprising activating the heating element during a predetermined length of time, measuring at least one characteristic of the thermal behavior of the boiler including recording a first temperature at a first time and recording a second temperature at a second time, wherein the first time is after a first time period after the predetermined length of time and the second time is after a second time period after the predetermined length of time and the first time, verifying a need for more water in the boiler by verifying whether the measured characteristic is within a particular range by comparing the measured characteristic to a reference characteristic, where the range signals a temperature of the boiler is too high, filling the container of the boiler with a predetermined quantity of water, and activating the heating element to heat the water in the container of the boiler to the predetermined temperature (col. 1, lines 25-42, col. 3, line 45 through col. 4, line 38, col. 5, lines 7-10), a pump (16) for pumping water to the boiler and where the fourth step comprises activating the pump during a predetermined length of time (col. 3, line 65 through col. 4, line 13), the fifth step is initiated before the fourth step has finished (col. 1, lines 34-42), the predetermined quantity of water with which the container of the boiler is filled during the fourth step is equal to or smaller than the volume of the container (col. 1, lines 34-42), a controller (47, 49) which is programmed such as to perform the method for operating the boiler (col. 3, line 64 though col. 4, line 44), a temperature detector (34) for detecting a temperature inside the boiler and which is located at a distance away from the heating element (fig 3), wherein the device is a coffee maker.

Albert et al fails to teach that the measured characteristic determines if the boiler is empty, that the second step comprises measuring a temperature change in the boiler over a time interval having a predetermined length and a predetermined starting time with respect to a starting time of the operation of the heating element, the second step is performed after the predetermined length of time during which the heating element is activated has lapsed, and that the second step is performed after a temperature change of a filled boiler measured over a predetermined time interval, has become smaller than a temperature change of an empty boiler, over the same time interval. Anderson, however, teaches measuring a temperature change in a boiler of a hot beverage machine over a time interval having a predetermined length and a predetermined starting time with respect to a starting time of the operation of a heating element to determine if the boiler is empty (paragraphs [0003] - [0006]), and that a measuring step is performed after the heating element activation has lapsed and after a temperature change of a filled boiler has become smaller than the temperature change of an empty boiler (paragraphs [0003] - [0006]).

In view of Anderson's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the steps given above with the method for operating a boiler, taught by Albert et al. Motivation can be found in paragraph [0002] of Anderson, and it is also noted that dry starting heaters meant to be submerged causes damage to the heaters and also may cause a hazardous situation for the user.

Albert et al, modified by Anderson discloses the claimed invention as set forth above except for specifying lengths of time for the predetermined length of time, first and second time periods. It would have been obvious to one of ordinary skill in the art at the time of invention that the specific time periods are designs specifications chosen to optimize the method and would vary by situation.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-270-5913. The examiner can normally be reached on Mon-Thur 8:30am-6:00pm :: alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/
Examiner, Art Unit 3742

05/06/2010
/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742